

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

CHRISTOPHER PEMENTAL,

Plaintiff

v.

THE BANK OF NEW YORK MELLON
F/K/A THE BANK OF NEW YORK, AS
TRUSTEE FOR THE HOLDERS OF THE
CERTIFICATES, FIRST HORIZON
MORTGAGE PASS-THROUGH
CERTIFICATES SERIES FHAMA 2004-
AA5, ALIAS, NATIONSTAR MORTGAGE,
LLC, JOHN DOE, ALIAS,

Defendants

C.A. No. 16-483-S-PAS

MOTION TO DISMISS AMENDED COMPLAINT
OR, IN THE ALTERNATIVE, FOR A MORE DEFINITE STATEMENT

Now come The Bank of New York Mellon F/K/A The Bank of New York, as Trustee for the Holders of the Certificates, First Horizon Mortgage Pass-Through Certificates Series FHAMA 2004-AA5 (the “Trust”), and Nationstar Mortgage, LLC (“Nationstar,” collectively, the “Defendants”), and respectfully move this Court to dismiss the Amended Complaint, with prejudice, pursuant to Fed. R. Civ. P. 12(b)(6). In the alternative, the Defendants respectfully move this Court to require Plaintiff to file a more definite statement with regards to Counts III and IV of his Amended Complaint. The grounds for this motion are set forth in Defendants’ memorandum of law, which is submitted herewith.

THE BANK OF NEW YORK MELLON
F/K/A THE BANK OF NEW YORK, AS
TRUSTEE FOR THE HOLDERS OF THE
CERTIFICATES, FIRST HORIZON
MORTGAGE PASS-THROUGH
CERTIFICATES SERIES FHAMA 2004-
AA5, NATIONSTAR MORTGAGE, LLC,

By Their Attorneys,

PARTRIDGE SNOW & HAHN LLP

/s/ Santiago H. Posas

David J. Pellegrino (#7326)

Santiago H. Posas (#9519)

40 Westminster Street, Suite 1100

Providence, RI 02903

(401) 861-8200

(401) 861-8210 FAX

djp@psh.com

shp@psh.com

DATED: September 16, 2016

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 16, 2016.

/s/ Santiago H. Posas

2847317_1/5427-635

2847317_2/5427-635